



POLITICS AND LAW

Stage 3

WACE Examination 2012

Marking Key

Marking keys are an explicit statement about what the examiner expects of candidates when they respond to a question. They are essential to fair assessment because their proper construction underpins reliability and validity.

Section One: Short response

30% (30 Marks)

Part A: Unit 3A

Question 1

(10 marks)

- (a) Identify **two** elements of responsible government as they apply to the Commonwealth Parliament. (2 marks)

Description	Marks
Identifies two distinct elements which include: the government remains in office as long as it retains the support (the confidence) of the majority in the House of Representatives; support may be tested in a vote of 'no confidence' in the House of Representatives; a government that loses a vote of confidence in the House of Representatives should resign or agree to an election; A Minister/ PM that loses a vote of confidence in the House should resign; the government must be able to guarantee Supply at least once a year. The word 'responsible' is not acceptable in identifying 'elements of responsible government'.	2
Identifies one element of responsible government.	1
Total	2

- (b) Section 64 of the Commonwealth Constitution refers to Ministers. Outline **one** element of this section and describe briefly its significance in Australian politics. (3 marks)

Description	Marks
Outlines accurately one element of Section 64 which include: The Governor-General appoints ministers; the ability of the Governor-General to dismiss Ministers holding office 'at the pleasure of the Governor-General; no Minister shall hold office for a longer period than 3 months unless he becomes a senator or member of the House of Representatives. Explains the significance of the particular element. This could include: reference to 1975 and the dismissal/appointment of PM; Ministers as members of Parliament and the concept of responsible government.	3
Outlines one element of Section 64 and attempts to explain its significance.	2
Outlines one element of Section 64 or Makes a general statement that links politics and section 64.	1
Total	3

- (c) 'The separation of powers doctrine does not exist in the Australian political and legal system.' Discuss **one** argument in support of and **one** argument against this claim.
(5 marks)

Description	Marks
The separation of powers doctrine will be evident within the response. Discusses one argument in support of the claim such as: the notion that the executive and legislative arms are fused in terms of Ministers being drawn from the legislature. Discusses one argument against the claim such as: the Commonwealth Constitution expressly acknowledges and establishes the three separate arms of government and that there is evidence of the three separate arms operating separately of each other in terms of their distinct functions.	5
The separation of powers doctrine will be evident within the response. Discusses one argument for/ against claim or makes a statement in relation to the claim – both for and against.	3–4
Makes a general statement in terms of the claim and/or outlines the separation of powers doctrine.	1–2
Total	5

Question 2 (10 marks)

- (a) Explain what is meant by a 'residual power' in the Commonwealth Constitution.
(2 marks)

Description	Marks
Explains that it is a legislative power not granted to the Commonwealth Parliament nor denied to the States in the Constitution and thus remains a legislative power of the States or; Explains how it is a legislative power not granted to the Commonwealth Parliament.	2
Gives an example of a residual power or makes a general statement regarding residual power.	1
Total	2

- (b) Distinguish between 'cooperative' and 'coercive' federalism.
(3 marks)

Description	Marks
The meaning of 'co-operative' (the Commonwealth and State governments working together in terms of both policy and administration) and 'coercive' (whereby the States are directed by the Commonwealth especially in policy areas) federalism is evident in the response. A stated distinction is made between the two types of federalism.	3
The two types of federalism are defined with no attempt to distinguish between these.	2
A general statement is made or else one or other type of federalism is outlined.	1
Total	3

- (c) Outline the operation of COAG and discuss, with reference to at least **one** example or issue, how it has contributed to coercive federalism. (5 marks)

Description	Marks
States that COAG meets to discuss intergovernmental matters. Identifies a relevant example/ issue such as health, education, industrial relations and/or use of funding. Discusses the issue/ example making the connection between COAG and the State(s)/ Premiers accepting the Commonwealth direction especially in an area of State legislative power.	5
States that COAG meets to discuss intergovernmental matters. Identifies a relevant example/issue such as health, education, industrial relations and/or use of funding. Attempts to make a connection between COAG and the State(s)/ Premiers accepting the Commonwealth direction especially in an area of State legislative power.	3–4
Identifies what COAG is and/ or makes a general statement regarding its operation and/ or identifies a relevant example related to the Commonwealth 'dictating' to the States.	1–2
Total	5

Part B: Unit 3B

Question 3

(10 marks)

- (a) Outline **two** distinct roles of the committee system within the Commonwealth Parliament. (2 marks)

Description	Marks
Outlines two distinct roles of the Committee system within the Commonwealth Parliament which include: supervising internal operations of Parliament; scrutinising proposed government expenditure; examining bills; investigating policy/legislative issues.	2
Outlines one distinct role of the Committee system within the Commonwealth Parliament.	1
Total	2

- (b) The High Court plays a critical role in the process of judicial review. Outline what is meant by 'judicial review' and describe briefly how it promotes the accountability of the Commonwealth Parliament. (3 marks)

Description	Marks
The concept of judicial review is outlined in terms of the High Court's power to review the constitutionality of legislation (Sections 75&76(i)). Citizens/affected parties may take action through the High Court to challenge the validity of particular legislation. An example could be used to explain how the High Court promotes the accountability of Parliament such as <i>Lane v Morrison</i> (2009), <i>Work Choices</i> (2006). The response must relate to parliament/legislation, not executive action.	3
A general understanding of the role of the High Court is apparent in terms of the constitutionality of legislation. Limited attempt to link judicial review and the accountability of the Commonwealth Parliament. or explains an example of judicial review of legislation.	2
Limited understanding of the role of the High Court and the accountability of the Commonwealth Parliament. or cites an example of judicial review of legislation.	1
Total	3

- (c) 'Parliamentary elections keep the House of Representatives and Senate accountable'. Identify and discuss, with reference to at least **one** example, **one** argument in support of **or one** argument against this claim. (5 marks)

Description	Marks
Specific example is evident in the discussion. Identifies one argument either for or against the claim. Arguments in support of the claim include: regular elections for each House and the judgement of the previous 'parliament'; the election of minor party representatives and/ or Independents especially in the Senate with the PR system of voting and the resultant accountability. Arguments against the claim include: The SME and Preferential system tends to reinforce the two party system and precludes minor party/ independent representation in the H of R; governments (H of R) can be elected without an absolute majority of the two party preferred vote; PR and GTV lends itself to Party deals and thus 'corrupts' the final seat in a State and hence devalues accountability.	5
Some attempt to incorporate a specific example into the discussion. Identifies one argument either for or against the claim.	3–4
Outlines an argument for or against the claim.	1–2
Total	5

Question 4

(10 marks)

- (a) Outline **two** functions of executive government that are performed by the Governor-General of Australia. (2 marks)

Description	Marks
Indicates the main feature of two functions of executive government that are performed by the Governor-General. These include: appointing members to the Federal Executive Council; assenting to legislation passed by the Parliament; appointing senior government officials; role as Command in Chief of the armed forces.	2
Indicates the main feature of one function or lists two functions of executive government that are performed by the Governor-General. N.B. Noting one function only scores zero marks.	1
Total	2

- (b) Distinguish between the 'express' and 'reserve' powers of the Governor-General and provide **one** example of each type of power. (3 marks)

Description	Marks
Outlines what is meant by 'express' and 'reserve' powers. 'Express' powers are those exercised by convention or on advice and where the Governor-General has no personal discretion. 'Reserve powers' are those powers that the Governor-General may exercise without or contrary to advice. One example of each type of power is given. 'Express' powers include: power to disallow legislation (s59), appoint justices of the High Court (s72), opening Parliament, assenting to laws. 'Reserve' powers include: power to call an election where there is a hung parliament; power to dismiss a PM where he or she has lost confidence of parliament or is acting unlawfully; power to refuse to dissolve House of Representatives despite a request from Prime Minister. States the main difference between 'express' and 'reserve' powers concerns whether or not the Governor-General can exercise discretion.	3
Outlines what is meant by 'express' and 'reserve' powers and gives one example of each type of power.	2
Outlines what is meant by one type of power with one example. or gives one example of each type of power.	1
Total	3

- (c) Identify and discuss **two** aspects of 'the 1975 Crisis' that generated debate regarding the role of the Governor-General in Australia. (5 marks)

Description	Marks
Identifies two aspects of 'the 1975 Crisis' which promoted debate regarding the role of the Governor-General in Australia. These include: the use of the reserve powers within a democracy; the use of the reserve powers to dismiss a PM who retained the confidence of the House; acting contrary to convention especially in terms of the advice of the PM. Discusses each aspect in terms of how it did actually promote debate regarding the role of the Governor-General.	5
Identifies two aspects of 'the 1975 Crisis' which promoted debate regarding the role of the Governor-General in Australia. A limited discussion of one or both of these aspects.	3–4
Identifies one or two aspects of 'the 1975 Crisis' or makes a general statement regarding why debate was promoted.	1–2
Total	5

Section Two: Source analysis

20% (20 Marks)

Source 1: Unit 3A

Question 5

(20 marks)

- (a) Explain what is meant by 'judicial activism'. (2 marks)

Description	Marks
Identifies two aspects; or identifies one aspect and gives a valid example of an activist decision which can include: A pure and technical reading of the law is not possible/not applied. Judges bring a social context to decision making or identifies one and gives a valid example of an activist decision.	2
Identifies one aspect or gives valid example(s) of 'activist' decision(s).	1
Total	2

- (b) With reference to **Source 1**, identify and explain **two** criticisms that are made of 'judicial activism'. (4 marks)

Description	Marks
Identifies two criticisms from the source which include: Decisions include the opinions of judges. States the law in a different way than hitherto because it ought to be different. Legal change is best left to professional politicians. Explains each criticism identified.	3-4
Identifies two criticisms from the source or identifies and explains one criticism.	2
Identifies one criticism from the source or makes a general criticism of 'judicial activism' based on the source.	1
Total	4

- (c) Outline and discuss **one** contemporary issue relating to legal power in Australia. (6 marks)

Description	Marks
Outlines one contemporary (last 5 years) issue relating to legal power. Discusses the contemporary issue and shows how it relates to legal power which could be within the political and/or legal sphere.	5-6
Outlines one contemporary (last 5 years) issue relating to legal power. Discusses the contemporary issue and attempts to show how it relates to legal power, which could be within either the political and/or legal sphere.	3-4
Identifies a contemporary issue relating to legal power or Provides a general discussion regarding legal power without examples.	1-2
Total	6

- (d) Explain what is meant by 'judicial legalism' and evaluate the impact of its application, making reference to **one** constitutional decision. (8 marks)

Description	Marks
Explains judicial legalism, which could include: the impartial reading of the law and then applying the law, being unmindful of the outcome of the case. Writing 'the black letter of the law' does not constitute an explanation. Identifies one constitutional decision by the High Court. Evaluates the impact of its application such as federalism. This could be in terms of its positive and negative impact compared with overall impact. Decisions related to federalism could include: <i>Engineers</i> (1920); <i>Uniform Tax</i> (1942).	7–8
Explains judicial legalism, which could include: the impartial reading of the law and then applying the law, being unmindful of the outcome of the case. Writing 'the black letter of the law' does not constitute an explanation. Identifies one constitutional decision by the High Court. Discusses, rather than evaluates, the impact of its application such as federalism. This could be in terms of its positive and negative impact compared with overall impact. Decisions related to federalism could include: <i>Engineers</i> (1920); <i>Uniform Tax</i> (1942).	5–6
Outlines what is meant by 'judicial legalism'. 'The black letter of the law' is acceptable. Identifies one constitutional decision of the High Court. Makes a statement regarding the impact of the decision.	3–4
Outlines what is meant by 'judicial legalism' or Identifies one constitutional decision of the High Court or makes a statement regarding the impact of a constitutional decision.	1–2
Total	8

Read **Source 2** and answer all parts of the question that follows.

Source 2: Unit 3B

Question 6

20 marks

- (a) Explain what is meant by 'human rights'. (2 marks)

Description	Marks
Indicates that these are the rights and freedoms to which every human is entitled; or indicates one aspect of either rights or freedoms and includes an example of human rights; or indicates that there is a set of inalienable rights by virtue of being human.	2
One aspect of the above or lists one or more examples of human rights.	1
Total	2

- (b) With reference to **Source 2**, identify and explain **two** human rights issues that have caused debate within Australia. (4 marks)

Description	Marks
Uses the source to identify two human rights issues causing debate in Australia. Explains an aspect of each of these which include issues relating to: - the treatment of indigenous Australians/ the failure of policies to recognise self-determination for indigenous people. - asylum-seekers and mandatory detention policy.	3–4
Identifies two human rights issues raised in the source and attempts an explanation of one of these.	2
Identifies two human rights issues causing debate within Australia or Identifies one human rights issue with limited explanation.	1
Total	4

- (c) Outline Australia's main international obligations to protect human rights and discuss their status within the Australian legal system. (6 marks)

Description	Marks
<p>Outlines the main international obligations of Australia to protect human rights with a general statement and at least two specific examples. These include UNDHR (1948); ICCPR (1980) and associated protocols including the right to make a complaint to the International Human Rights Committee (1991); ICESCR (1975) and the obligation to make periodic reports on its implementation every 5 years. CERD (1975); CEDAW (1983).</p> <p>Discusses the status of these treaties/ covenants and protocols. This includes the fact that Australian courts have consistently denied that these international obligations can have any effect for domestic legal purposes until they are given effect through legislation.</p> <p>Better students may qualify this with the short-term consequences (1995-2003) of the <i>Teoh</i> (1995) judgement but it is not essential to the response.</p>	5–6
<p>Makes a general statement and cites at least two international obligations.</p> <p>Makes a general statement regarding the status of these international obligations.</p>	3–4
<p>Makes a general statement or cites two international obligations.</p>	1–2
Total	6

- (d) Evaluate the extent to which representation **or** political rights are upheld in Australia and **one** other country. (8 marks)

Description	Marks
<p>The response can deal with either representation (multi-party system, free and fair electoral system, broad franchise, broad eligibility of candidates) or political rights (right to vote, right to stand for election, freedom of assembly). In either case the meaning of the term will be explained within the response.</p> <p>There is an expectation that information is specific and factually correct for Australia and one other country. At least one aspect would need to be the focus of the discussion for each country.</p> <p>A discussion of representation/political rights in Australia. This could include changes to the franchise/ prisoner rights/ extent of freedom of assembly/ the role of political parties/access of citizens to parliamentary procedures.</p> <p>Identification of one other country with a discussion of representation/ political rights in that country.</p> <p>An evaluation is made for both Australia and one other country in terms of the extent to which political rights/ representation are upheld.</p>	7–8
<p>Explains the term representation or political rights.</p> <p>Information is specific and factually correct for both countries.</p> <p>A discussion of representation/ political rights in Australia.</p> <p>A discussion of representation/ political rights in one other country.</p> <p>A statement is made regarding the extent to which representation/ political rights are upheld in Australia and one other country.</p>	5–6
<p>Explains the term representation or political rights.</p> <p>Information is generally correct for both countries.</p> <p>A statement is made about representation/ political rights in Australia.</p> <p>A statement is made about representation/ political rights in one other country.</p>	3–4
<p>Makes a general statement regarding representation or political rights in Australia and/or one other country.</p>	1–2
Total	8

Section Three: Extended response

50% (50 Marks)

Part A: Unit 3A

Question 7

(25 marks)

The Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of the Parliament are compromised.

Evaluate the validity of this claim.

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve top marks. Responses with some of these criteria would achieve at least 21 marks.</p> <p>The functions of the Commonwealth Parliament are evident within the discussion. These functions include to legislate; to authorise expenditure; to check the executive; representation of the people/States; a national forum for debate.</p> <p>The place /role of the Prime Minister within the Parliament (House of Representatives and Senate) is identified.</p> <p>Makes links between the Prime Minister and the various functions of the Commonwealth Parliament- (House of Representatives and Senate) making reference to particular Prime Ministers. Other factors such as the role of party discipline, the relative strength of the government party in the House of Representatives and the Senate may be raised in discussing the functions of Parliament. These factors would then be part of the evaluation regarding the PM as a dominant force and whether or not the functions of parliament are compromised.</p> <p>Relevant and accurate examples from recent Parliaments are incorporated in the discussion which could include PM Howard and the Parliament especially 2005-2007 (control of both Houses of Parliament); Gillard 2010 to the present (minority government).</p> <p>Examines the issues of whether or not the Prime Minister is the dominant force in the Commonwealth Parliament and whether or not the functions of Parliament are compromised due to the dominance of the PM.</p> <p>Presents a conclusion that raises both aspects of the claim: is the PM the dominant force within the Commonwealth Parliament and are the functions of parliament compromised because of this dominance by the PM?</p> <p>Presents a reasoned, balanced and coherent evaluation of the claim that the Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of the parliament are compromised using relevant political and legal terminology.</p>	21–25

Question 7 continued

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 16 marks.</p> <p>The functions of the Commonwealth Parliament are evident within the discussion.</p> <p>The place /role of the Prime Minister within the Parliament (House of Representatives and Senate) is identified.</p> <p>Makes links between the Prime Minister and some of the functions of the Commonwealth Parliament.</p> <p>Some relevant and accurate examples from recent Parliaments are incorporated in the discussion.</p> <p>Discusses the issue of whether or not the Prime Minister is the dominant force in the Commonwealth Parliament and whether or not the functions of Parliament are compromised due to the dominance of the PM.</p> <p>Presents a conclusion that attempts to raise both aspects of the claim: is the PM the dominant force within the Commonwealth Parliament and are the functions of parliament compromised because of this dominance by the PM?</p> <p>Presents a reasoned, balanced and coherent but limited evaluation of the claim, that the Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of parliament are compromised using relevant political and legal terminology.</p>	16–20
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 11 marks.</p> <p>Some functions of the Commonwealth Parliament are identified within the discussion.</p> <p>The place/role of the Prime Minister within the Parliament (House of Representatives and Senate) is identified.</p> <p>Some examples from recent Parliaments are cited in the discussion of whether or not the PM is the dominant force in Parliament and whether the functions of parliament are compromised by the PM.</p> <p>Presents a conclusion that addresses the claim to a limited extent.</p> <p>Presents a discussion rather than an evaluation with some reason, balance and coherence about whether or not the Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of parliament are compromised using some relevant political and legal terminology.</p>	11–15
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 6 marks.</p> <p>Some functions of the Commonwealth Parliament are identified.</p> <p>The place /role of the Prime Minister within the Parliament (House of Representatives and Senate) is identified.</p> <p>Limited examples from recent parliaments are used.</p> <p>Presents statements concerning the claim rather than a reasoned balanced and coherent evaluation, that the Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of parliament are compromised using limited relevant political and legal terminology.</p>	6–10

Question 7 continued

Description	Marks
Note: Responses demonstrating no understanding would achieve at the bottom of this range of marks. Demonstrates minimal or no understanding of whether or not the PM is the dominant force in the parliament and whether or not the functions of parliament are compromised. Presents minimal statements with minimal or no political and legal terminology.	1–5
Total	25

Question 8

(25 marks)

The High Court, rather than referendums, has had a greater impact on constitutional change in Australia.

Evaluate the validity of this claim.

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve top marks. Responses with some of these criteria would achieve at least 21 marks.</p> <p>Explains how the High Court can effect constitutional change in Australia. Explains how referendums alter the Constitution. This question does not require any other 'impacts' on the constitution. With reference to specific High Court judgments analyses the impact of the High Court on constitutional change. This will include a discussion of how the judgment actually changed the constitution. Cases could include <i>Engineers</i> (1920), Section 51(29) cases; Implied Rights cases; <i>Work Choices</i> (2006). With reference to specific referendums – successful(8) and unsuccessful(36)- analyses the impact of referendum on constitutional change. This will include a discussion of the changes wrought by some referendums. Recognises that constitutional change can occur through interpretation of individual cases brought to the High Court and that this process may be easier to achieve than amendment by a referendum. Presents a valid conclusion based on the evidence that perhaps highlights High Court judgments/interpretations can change over time compared to referendums and incorporates a comparison regarding the relative impact of each method of constitutional change. This is not a discussion regarding why one method of constitutional change may be easier than the other. Presents a reasoned, balanced and coherent evaluation of the claim that the High Court rather than referendums has had a greater impact on constitutional change in Australia using relevant political and legal terminology.</p>	21–25
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 16 marks.</p> <p>Explains how the High Court can effect constitutional change in Australia. Explains how referendums alter the Constitution. With reference to specific High Court judgements discusses the impact of the High Court on constitutional change. This will include a discussion of how the judgement actually changed the constitution. Cases could include <i>Engineers</i> (1920), Section 51(29) cases; Implied Rights cases; <i>Work Choices</i> (2006). With reference to specific referendums – successful (8) and unsuccessful (36)- discusses the impact of referendum on constitutional change. This will include a discussion of the changes wrought by some referendums. Presents a conclusion based on the evidence and attempts to make some comparison regarding the relative impact of each method of constitutional change. This is not a discussion regarding why one method of constitutional change may be easier than the other. Presents a mostly reasoned, balanced and coherent but limited evaluation of the claim that the High Court rather than referendums has had a greater impact on constitutional change in Australia using relevant political and legal terminology.</p>	16–20

Question 8 continued

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 11 marks.</p> <p>Explains how the High Court can effect constitutional change in Australia. Explains how referendums alter the Constitution. With reference to at least one High Court judgment discusses the impact of the High Court on constitutional change. With reference to at least one referendum discusses the impact of referendum on constitutional change. Presents a conclusion that addresses the claim to a limited extent attempting to agree or disagree with its validity. Presents a discussion rather than an evaluation with some reason, balance and coherence about whether or not the High Court rather than referendums has had a greater impact on constitutional change in Australia using some relevant political and legal terminology.</p>	11–15
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 6 marks.</p> <p>Outlines how the High Court can effect constitutional change in Australia. Outlines how referendums alter the Constitution. Makes general statements regarding the impact of the High Court on constitutional change with little or no reference to examples. Makes general statements regarding the impact of referendum on constitutional change with little or no reference to examples. Presents statements rather than reasoned, balanced and coherent discussion about whether or not the High Court rather than referendums has had a greater impact on constitutional change in Australia using limited political and legal terminology.</p>	6–10
<p>Note: Responses demonstrating no understanding would achieve at the bottom of this range of marks.</p> <p>Demonstrates minimal or no understanding of the role of the High Court and referendums in constitutional change in Australia. Provides minimal or no reference to examples. Presents minimal statements.</p>	1–5
Total	25

Part B: Unit 3B

Question 9

(25 marks)

Explain how, and evaluate the extent to which, the Executive and Commonwealth Public Servants are held accountable in Australia.

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve top marks. Responses with some of these criteria would achieve at least 21 marks.</p> <p>Identifies the Executive as the PM and the Ministry (essential) but could also include the Governor-General.</p> <p>Identifies the role of Commonwealth Public Servants within the political system.</p> <p>Identifies the various methods by which the Executive and Commonwealth Public Servants are held accountable. These include the Parliament and ministerial accountability both collective and individual; Senate Estimates; Parliamentary Inquiries; Commonwealth Auditor-General; tribunals such as the AAT; judicial review.</p> <p>Examines several of these methods and their ability to hold the Executive and Commonwealth Public Servants accountable. This examination would incorporate accurate reference to relevant examples in the discussion of each of the methods of accountability referred to.</p> <p>Presents a conclusion, based on the evidence on whether or not, or the extent to which, the Executive and Commonwealth Public Servants are actually held accountable in Australia.</p> <p>Presents a reasoned, balanced and coherent evaluation of the extent to which the Executive and Commonwealth Public Servants are held accountable using relevant political and legal terminology.</p>	21–25
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 16 marks.</p> <p>Identifies the Executive as the PM and the Ministry.</p> <p>Identifies the role of Commonwealth Public Servants within the political system.</p> <p>Identifies some of the methods by which the Executive and Commonwealth Public Servants are held accountable.</p> <p>Discusses some of these methods and their ability to hold the Executive and Commonwealth Public Servants accountable. This examination would incorporate accurate reference to relevant examples in the discussion of each of the methods of accountability referred to.</p> <p>Presents a conclusion, with little if any evaluation regarding the extent to which, the Executive and Commonwealth Public Servants are actually held accountable in Australia.</p> <p>Presents a mostly reasoned, balanced and coherent discussion of the extent to which the Executive and Commonwealth Public Servants are held accountable using relevant political and legal terminology.</p>	16–20

Question 9 continued

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 11 marks.</p> <p>Identifies the Executive as the PM and the Ministry. Identifies the role of Commonwealth Public Servants within the political system. Identifies at least two methods by which the Executive and Commonwealth Public Servants are held accountable. Discusses at least two of these methods and their ability to hold the Executive and Commonwealth Public Servants accountable. This discussion would include reference to a relevant example in the discussion of each method. Presents a conclusion stating whether or not the Executive and Commonwealth Public Servants are held accountable in Australia. Presents a discussion with some reason, balance and coherence on the extent to which the Executive and Commonwealth Public Servants are held accountable using some relevant political and legal terminology.</p>	11–15
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 6 marks.</p> <p>Identifies the Executive as the PM and the Ministry. Identifies the role of Commonwealth Public Servants within the political system. Identifies one method by which the Executive and Commonwealth Public Servants are held accountable. Presents statements regarding this method and its ability to hold the Executive and Commonwealth Public Servants accountable with limited reference to examples and limited use of political and legal terminology. Presents a concluding statement on whether or not the Executive and Commonwealth Public Servants are held accountable in Australia.</p>	6–10
<p>Note: Responses demonstrating no understanding would achieve at the bottom of this range of marks.</p> <p>Demonstrates minimal or no understanding of the Executive and Commonwealth Public Servants and their accountability. Presents minimal statements and no discussion with little or no political and legal terminology.</p>	1–5
Total	25

Question 10

(25 marks)

Explain how the Commonwealth Constitution, statute law and common law protect human rights in Australia and evaluate the relative importance of each of these three forms of protection.

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve top marks. Responses with some of these criteria would achieve at least 21 marks.</p> <p>Specific sections of the Commonwealth Constitution, specific statutes, specific common law are referred to.</p> <p>Outlines and examines how human rights are protected in the Commonwealth Constitution- this would include both express and implied rights.</p> <p>Outlines and examines how human rights are protected in statute law</p> <p>Outlines and examines how human rights are protected in common law.</p> <p>In the examination of each of the above ways human rights are protected particular rights are incorporated into the discussion and the adequacy of the protection provided is discussed.</p> <p>Makes a comparison between the ways the Commonwealth Constitution, statute law and common law protect human rights in Australia and in conclusion makes an evaluation regarding the relative importance of each compared to the other two ways in actually protecting human rights.</p> <p>Presents a reasoned, balanced and coherent, evaluation of the relative importance of the Commonwealth Constitution, statute law and common law in protecting human rights in Australia using relevant political and legal terminology.</p>	21–25
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 16 marks.</p> <p>Specific sections of the Commonwealth Constitution, specific statutes, specific common law are referred to.</p> <p>Outlines and examines how human rights are protected in the Commonwealth Constitution- this would include both express and implied rights.</p> <p>Outlines and examines how human rights are protected in statute law.</p> <p>Outlines and examines how human rights are protected in common law.</p> <p>In the examination of each of the above ways human rights are protected particular rights are mentioned in the discussion and the adequacy of the protection provided is raised.</p> <p>Makes some comparison between the ways the Commonwealth Constitution, statute law and common law protect human rights in Australia and draws a conclusion, with little if any evaluation, regarding the relative importance of one compared to the other two ways in protecting human rights in Australia.</p> <p>Presents a mostly reasoned, balanced and coherent discussion of the relative importance of the Commonwealth Constitution, statute law and common law in protecting human rights in Australia using relevant political and legal terminology.</p>	16–20

Question 10 continued

Description	Marks
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 11 marks.</p> <p>Outlines and explains how human rights are protected in the Commonwealth Constitution- this would include both express and implied rights. Outlines and explains how human rights are protected in statute law. Outlines and explains how human rights are protected in common law. In the explanation of each of the above ways human rights are protected some rights are mentioned. Makes a limited comparison between the ways the Commonwealth Constitution, statute law and common law protect human rights in Australia with a concluding statement. Presents a discussion rather than any comparison with some reason, balance and coherence using some relevant political and legal terminology.</p>	11–15
<p>Note: Responses satisfying most of these criteria would achieve at the top of this range of scores. Responses satisfying some of these criteria would achieve at least 6 marks.</p> <p>Outlines how human rights are protected in the Commonwealth Constitution. Outlines how human rights are protected in statute law. Outlines how human rights are protected in common law. In the explanation of each of the above ways human rights are protected some rights are mentioned. Makes little if any comparison between the ways the Commonwealth Constitution, statute law and common law protect human rights in Australia. Presents statements rather than any reasoned, balanced and coherent discussion and limited relevant political and legal terminology.</p>	6–10
<p>Note: Responses demonstrating no understanding would achieve at the bottom of this range of marks.</p> <p>Demonstrates minimal or no understanding of human rights and how they are protected by the Commonwealth Constitution, statute law and common law in Australia. Presents minimal statements and no discussion with little or no political and legal terminology.</p>	1–5
Total	25